

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Annual Earnings Assessment Proceeding (AEAP)
Application of Pacific Gas and Electric Company
for Approval of Energy Efficient Shareholder
Incentives for Third Claim for Incentives for 1998
Accomplishments for Pre-1998 Programs, and for
Recovery of Costs for the 2002 Interruptible Load
Programs.

Application 03-05-002

In the Matter of the Application of Southern
California Gas Company (U904G) for Authority
to Increase its Gas Revenue Requirements to
Reflect its Accomplishments for Demand-Side
Management Program Year 1997 and Low-
Income Program Years 2001 and 2002 in the 2003
Annual Earnings Assessment Proceeding
("AEAP").

Application 03-05-003

In the Matter of the Application of San Diego Gas
& Electric Company for Approval of Incentives
Associated with its Accomplishments for Low
Income Program Year 2001 and Demand
Response Program Expenditures in the 2003
Annual Earnings Assessment Proceeding
("AEAP").

Application 03-05-004

In the Matter of the Application of Southern
California Edison Company (U338-E) for
Approval of Pre-1998 Demand-Side Management
Earnings Claims, 2001 and 2002 Low Income
Energy Efficiency Earnings Claims, and
Interruptible Load Programs Memorandum
Account Balances Recorded in 2002, and In
Support of 2002 Energy Efficiency Program
Performance Achievements.

Application 03-05-009

**ADMINISTRATIVE LAW JUDGE'S RULING CONSOLIDATING
PROCEEDINGS AND NOTICE OF PREHEARING CONFERENCE**

By this ruling, I am consolidating the 2003 Annual Earnings Assessment Proceeding (AEAP) applications captioned above into a single proceeding. A prehearing conference (PHC) will be held on July 24, 2003 at 10:00 a.m. in the Commission's Courtroom, 505 Van Ness Avenue, San Francisco, California. The purpose of the PHC is to address the scope and schedule for the Commission's evaluation of shareholder earnings claims and other issues contained in the utilities' applications. I anticipate that the PHC will end by noon.

Service List

The service list for the 2000, 2001 and 2002 AEAPs, (Application (A.) 00-05-002) will serve as the service list for this proceeding until the July 24, 2003 PHC. A new service list will be established at that time. Those who wish to become an "appearance" on the service list for one or more of the applications listed above, should appear in person at the PHC and fill out an appearance form. To be included in the new service list under "State Service" (for State agencies or Commission staff) or under "Information Only," you have the option of: (1) appearing in person at the PHC and filling out an appearance form with that category marked or (2) writing the Commission's Process Office after the PHC, giving the number of the proceeding and noting that you want to appear under the information or state service categories, as appropriate. However, there are differences among the various categories (appearance, information only, state service) in terms of party status and what types of documents you will be served with during the proceeding. Contact the Process Office at (415) 703-2021 for more information.

Scope and Scheduling Considerations

In brief, the utilities request the following in their 2003 AEAP applications:

1. San Diego Gas & Electric, Southern California Gas Company and Southern California Edison request Commission authorization for the second earnings claim associated with program year (PY) 2001 Low-Income Energy Efficiency (LIEE) activities. Because PG&E (Pacific Gas & Electric) did not meet the minimum performance threshold for this program, it did not submit earnings claims for PY2001 LIEE program activities in either the 2002 or 2003 AEAPs.
2. SoCal and SCE request Commission authorization for the first earnings claim associated with PY2002 LIEE activities. Because SDG&E and PG&E did not meet the minimum performance threshold, they do not request any earnings for PY2002 LIEE program activities.
3. PG&E, SDG&E and SCE request recovery of administrative costs booked to the electric Interruptible Load Program Memorandum Account in 2002. Per Decision (D.) 01-07-029, the reasonableness review of these costs is conducted in the AEAPs.
4. PG&E requests collection of its third claim for its 1994 New Construction program, which is subject to a performance adder incentive mechanism and authorized by the Commission in D.00-09-038.
5. SoCal requests recovery of its third earnings claim for its PY1997 Energy Edge program projects completed in 1998. This program is subject to the shared-savings mechanism adopted in D.94-10-059.
6. SCE requests recovery of its third earnings claim for 1996 and 1997 New Construction Portfolio activities completed in 1998. This program is subject to the shared-savings mechanism adopted in D.94-10-059.
7. SDG&E requests that the Commission adopt the sixth-year retention and performance studies for several of the 1996 and 1997 energy efficiency programs. SDG&E plans to use the results of these studies to revise lifecycle savings estimates for the fourth earnings claims, which SDG&E will submit in the 2007 and 2008 AEAPs.
8. The utilities also provide information on 2002 energy efficiency program activities, but do not appear to request any Commission action to release the 15% hold-back amounts (per D.01-11-066 Attachment 1) at this time. Performance evaluation and verification studies will be

submitted in March 2004. There are no shareholder incentives associated with the PY2002 energy efficiency program.

Resolution of most of these issues appears to be contingent upon the Commission's determinations in A.00-05-002 et al. as well as the completion of other activities related to the review of the utilities' earnings claims. As the utilities acknowledge in their 2003 AEAP applications, the second-year claim for 2001 LIEE program activities is contingent upon the Commission's verification of program expenditures and installations in the 2002 AEAP. The Commission is currently considering this issue in A.00-05-002 et al., and a draft decision should be issued for comment in early July.

In that same proceeding, the Commission is also considering whether to reopen Rulemaking 91-08-003/Investigation 91-08-002 to modify the pre-1998 shared-savings mechanism for energy efficiency programs. This threshold issue needs to be addressed before the utilities' pre-1998 shared-savings earnings claims can be considered. I plan to submit my recommendations to the Assigned Commissioner by mid-July. I expect that the item will not appear on the agenda until September, given the Commission's meeting schedule (i.e., only one meeting in August).

I have also recommended to the Assigned Commissioner in A.00-05-002, et al. that Energy Division audit the Interruptible Load Program Memorandum Account balances submitted in the 2002 AEAP. There has been no review of the costs booked to this account by Office of Ratepayer Advocates (ORA) or any other interested party. As a result, the record in A.00-05-002 et al. is void of any verification that the amounts booked to these accounts represent dollars each utility has "spent or received above funds authorized in current rates", as required by the Commission. Unless ORA or another party can obtain the resources to review these costs for reasonableness in the near future, I believe

that recovery of 2001 and 2002 balances must await the completion of an independent Energy Division audit.

In addition, pursuant to D.03-04-055, Energy Division is in the process of contracting for an independent verification of the retention and technical performance studies related to pre-1998 shared-savings earnings claims, as well as the post-1997 program results. Energy Division's best estimate at this time for completion of the work products under these contracts is late fall or early next year. The Commission's determinations on these issues will affect the earnings claims submitted in this and future AEAPs.¹

PHC Statements

The utilities and interested parties are encouraged to file PHC conference statements on the scope and schedule for this proceeding that reflect the pending verification issues described above, and any other factors that the Commission should consider.

In addition, in reviewing the applications, I noticed that the electric utilities propose somewhat different ratemaking treatment for the recovery of 2003 AEAP earnings claims. As I understand it, SDG&E plans to transfer revenues from the Post-1997 Electric Energy Efficiency Balancing Account to cover the costs of its electric LIEE claim, and book its gas LIEE claim to its gas Rewards and Penalties Balancing Account, with no impact on rates. PG&E

¹ See Request for Proposal for a Review of Retention and Persistence Studies, Program Milestones, and Program Accomplishments, dated May 2, 2003. This document can be accessed from the Commission's website at www.cpuc.ca.gov/static/industry/electric/energy+efficiency/rulemaking.htm

proposes that electric and gas revenue changes resulting from its application be consolidated with other revenue changes in PG&E's Electric Revenue Adjustment Proceeding (or a successor proceeding) and gas Biennial Cost allocation Proceeding, or other applicable gas proceeding. In effect, PG&E is requesting an increase in its 2004 electric distribution revenue requirement and a decrease in its 2004 gas revenue requirement. SoCal also requests that the gas revenue requirement increases associated with its 2003 AEAP application become effective in early 2004 with other rate changes expected in applicable gas proceedings.

SCE describes its proposed ratemaking treatment in Section VI of its Testimony. Apparently, the LIEE earnings claims will result in a net decrease to the LIEE Programs Adjustment Mechanism account, with no associated rate changes. SCE plans to collect New Construction Portfolio earnings through the operation of its Demand-Side Management Earnings Memorandum Account, whereby monthly authorizations in that account would be transferred to the Settlement Rate Balancing Account established by Resolution E-3725.

In preparation for the PHC, utilities should consult on their ratemaking proposals and elaborate in their PHC statements on the reasons for differences in their proposed ratemaking treatment. They should also discuss how their proposed ratemaking treatment for LIEE earnings claims conforms to the Commission's direction in D.01-06-082. In addition, the utilities should prepare and submit a summary table of the earnings claims in the 2003 AEAP in a format similar to the summary table for A.00-05-002 et al. that I distributed via email on May 23, 2003.

ORA has filed protests to PG&E's and SCE's 2003 AEAP applications. ORA is concerned about market share issues with respect to the Standard

Performance Contracting program as well as documentation issues (i.e. the completion of customer affidavits). However, it is not clear to me what earnings claims ORA is protesting. In its PHC statement, ORA should clarify this issue. In addition, ORA should discuss how the Commission may best address these concerns in coordination with Energy Division's financial and management audit of the utilities' 1998-2002 energy efficiency programs.²

ORA does not protest any of the LIEE earnings claims submitted by the utilities in this proceeding. However, ORA does not discuss what, if any, verification efforts it has conducted in determining that it would not protest these claims. In its PHC statement, ORA should describe the specific activities it has undertaken to verify the installation and expenditure data underlying the 2002 first-year earnings claims of SCE and SoCal. In addition, with respect to the second-year claims for 2001 LIEE activities, ORA should discuss what steps it has taken (if any) to verify that the 2001 load impact evaluations are consistent with the measurement and evaluation protocols required for such studies.

Finally, all interested parties should discuss in their PHC Statements whether evidentiary hearings are needed and, if so, what factual issues should be addressed in those hearings.

IT IS RULED that:

1. The above-captioned applications are consolidated.

² See Request for Proposal for a PGC Financial and Management Audit of Utility Public Goods Charge Energy Efficiency Programs from 1998 through 2002, dated May 2, 2003. This document can also be accessed from the Commission's website. (See Footnote 1.)

2. The Motion of the Office of Ratepayer Advocates (ORA) to Accept Late-Filed Protest to the 2003 Annual Earning Assessment Proceeding Application of Southern California Edison Company, dated June 10, 2003, is granted.

3. A prehearing conference (PHC) shall be held on July 24, 2003 at 10:00 a.m. in the Commission's Courtroom, 505 Van Ness Avenue, San Francisco, California. A new service list will be established at that time.

4. The service list in Application (A.) 00-05-002 et al. will serve as the temporary service list for this proceeding until a new one is established at the July 24, 2003 PHC.

5. The PHC statements of the utilities and ORA shall include the information requested in this ruling.

6. PHC statements are due by July 18, 2003, and shall be filed at the Commission's Docket Office in this proceeding and served electronically on all appearances and the state service list in A.00-05-002 et al. Service by U.S mail is optional, except that one hard copy shall be mailed to me and Commissioner Kennedy at 505 Van Ness Avenue, San Francisco, California 94102. In addition, if there is no electronic mail address available, the electronic mail is returned to the sender, or the recipient informs the sender of an inability to open the document, the sender shall immediately arrange for alternate service (regular U.S mail shall be the default, unless another means is mutually agreed upon). The service list for A.00-05-002 et al. is available on the Commission's web page, www.cpuc.ca.gov.

7. The utilities, ORA and interested parties filing PHC statements shall also bring fifteen (15) hard copies for distribution at the PHC.

Dated June 25, 2003, at San Francisco, California.

/s/ MEG GOTTSTEIN (by LTC)

Meg Gottstein
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Consolidating Proceedings and Notice of Prehearing Conference on all parties of record in this proceeding or their attorneys of record.

Dated June 25, 2003, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at

A.03-05-002, et al. MEG/hl2

(415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.